

April 8, 2025

Honorable Claudia Wilken
C/O Clerk of the United States District Court
Northern District of California
1301 Clay Street, #400S
Oakland, CA 94612

Mr. Jeffrey L. Kessler
Winston & Strawn, LLP
200 Park Avenue
New York, NY 10166-4193

Mr. Steve W. Berman
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1301 Second Avenue, Suite 2000
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Mr. Rakesh Kilaru
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2001 M Street NW
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Re: In re College Athlete NIL Litigation, Case No. 4:20-cv-03919-CW (N.D. Cal.)

Dear Judge Wilken,

Thank you for the opportunity to address the court on Monday. It is apparent there are a number of complex issues and I appreciate the hard work being done to resolve some of them.

As I understand the original complaint, athletes were suing the NCAA because of anti-competitive behavior that stripped athletes of the power to control and earn from their own name, likeness and image. I was one of those athletes significantly harmed by these rules that violated antitrust regulations.

This settlement **does not** and **will not** compensate me for the damages I incurred. It is not a clerical or administrative issue, instead, as I now understand, it is an agreed upon resolution, that does not enable me to be compensated for my damages.

I was informed that my damages settlement would take my performance and contribution into account. It does not. That data was never even considered when calculating my damages payout, as there is no place in the model for it.

FILED
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CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

I humbly request that plaintiff attorneys:

1. Make individual payment amounts public and hire a 3rd party auditor, with an understanding of sports, to represent pre-NIL athletes and look at settlement payouts for fairness, data integrity, and logic especially with regard to performance and contribution. And, to publish a report on their findings. And, that the settlement administrator be empowered to right the wrongs uncovered by the audit.
2. Adapt the payout model so that pre-NIL era athletes are able to be compensated for their lost NIL, and not unfairly treated as a second class.

And finally,

3. Because I was misled into believing that performance would be taken into account in my payout, and it is not, I request the ability to opt out, given that I opted in to this settlement under false pretenses.

Thank you again for the grueling work you all are doing to try to settle and create fairness.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ben Burr-Kirven', with a long, sweeping horizontal line extending to the right.

Benjamin Burr-Kirven
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